

just hunkers down and says no, this way or no way, you don't ever get anything. I will continue to probe and work with Senator DASCHLE, Senator REID, and Senator DOMENICI, to see if we can find a way to resolve this problem. I think perhaps we can. We will be talking further. I want to make sure we have on record that we are trying to get it done, and we will hopefully come back here in another hour or two and try again.

#### UNANIMOUS-CONSENT REQUEST

Mr. LOTT. Mr. President, I ask unanimous consent that after conclusion of the 6:00 p.m. vote or votes, if any, on Monday, the Senate proceed to the intelligence authorization bill, S. 2507, and following the reporting by the clerk, Senator THOMPSON be recognized to offer an amendment.

Mr. DASCHLE. Mr. President, reserving the right to object, can the majority leader give me his latest report with regard to the hearing in the Judiciary Committee on Tuesday?

Mr. LOTT. I have been in contact through senior staff, the top staff of Senator HATCH, with a suggestion of how we could proceed on that and get that information back to Senator DASCHLE. I did that, I guess, about an hour ago. I have not gotten a response back from them yet. But if I don't get one pretty quick, I will pursue another call to see if we can work that out.

Mr. DASCHLE. Mr. President, I will be constrained to object at this time, with the hope and expectation that we can get a much larger and more comprehensive unanimous consent agreement later in the afternoon. So I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. Mr. President, let me say again, of course, judicial nominations are important to the country on both sides of the aisle. I guess in the Senate everything is related to everything else. But who the hearings are on in Judiciary doesn't directly affect this bill. We need to get the intelligence authorization bill done.

Once again, this is important to the national security of our country. There had been some objections to it, but we have worked through those, and it took a lot of give and take and cooperation on both sides because there were objections on both sides of the aisle. We have cleared that.

Regarding the amendment I pointed out of Senator THOMPSON, I have been looking for any number of ways to have this very important matter of nuclear weapon proliferation by China reviewed. Senator THOMPSON has been very helpful and willing to withhold, or to consider any number of options as to how that would be considered. It seems to me that if we can get the intelligence authorization bill up, that would be an appropriate place for this issue to be considered, so that we can move to the PNTR for China issue on

Wednesday. We are going to do that anyway. But I would like to have been able to deal with Senator THOMPSON's very meritorious amendment, either freestanding or as an amendment before we go to the China PNTR issue because I think he is going to be constrained to offer it as an amendment to the bill. That would be difficult because if it should be approved, of course, it would have to go on the bill and it would go back to conference and the House would have to consider it again. Perhaps, there will be enough votes to defeat it, but I, for one, do not feel constrained to vote against an issue of this significance. I think it is a legitimate argument that this is a national security and nuclear proliferation issue that should maybe be considered separate from the trade issue, but it is related to how we are going to deal with China in the future.

So, again, Senator DASCHLE objected with the recognition that we are working on another angle or issue. We will try to get that worked out, and then we will try again later this afternoon on this issue. Rather than me controlling the floor for the debate, I think it would be best at this point if perhaps I would yield the floor, and perhaps Senator THOMPSON and Senator HOLLINGS, who are very interested in this issue, could speak on their own time.

I yield the floor.

The PRESIDING OFFICER (Mr. HAGEL). The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, let me say this to the majority leader before he leaves the floor. He and I have spent more time than we probably care to calculate over the last couple of days trying to work through what is obviously a very complicated and difficult period. I have appreciated his good nature as we have done this, his patience, his tolerance. He is smiling now, which is encouraging to me. I am going to keep smiling, too. I hope we can accommodate this unanimous consent request for the intelligence authorization. As Senator LOTT, I recognize that it is important, and I hope we can address it.

I also hope we can address the additional appropriations bills. There is no reason we can't. We can find a compromise if there is a will, and I am sure there is. But we also want to see the list of what we expect will probably be the final list of judicial nominees to be considered for hearings in the Judiciary Committee this year. I am anxious to talk with him and work with him on that issue. All of this is interrelated, as he said, and because of that, we take it slowly. So far, we have been able to take it successfully.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

#### INTELLIGENCE AUTHORIZATION

Mr. THOMPSON. Mr. President, I thank the majority leader and the mi-

nority leader for trying to work out these complicated matters. There is, understandably, some interrelationship. I think it is well known that we are looking for a way to get a vote on the important issue of proliferation. It should not be considered to be a trade issue. It is an issue separate and apart. Many of us believe it is extremely timely because of the trade issue, and that while we need to extend our trade relationship with China, at the same time, we need to demonstrate to them and to the world that they must do something to improve their habits in terms of proliferation of weapons of mass destruction. Every day, we see in some media outlet a further indication that the Chinese are intent upon continuing their proliferation habits, as long as we support Taiwan and as long as we perceive a national defense system.

I hope the objection is not based upon the desire by the Democratic leader to prevent a vote from happening on the issue of China's proliferation. Just as the majority leader and the Democratic leader have been working together, so have the staffs been working together across the aisle to try to bridge some of the differences on this bill. We have made changes to the bill to accommodate some of the concerns. This bill will not affect agriculture; this bill will not affect business, except in those narrow circumstances when a business may be dealing directly with a known and determined foreign proliferator. At that point, it is not too high a price to ask our American businesses not to deal with those kinds of companies. That is what this is about.

So now that the majority leader has set a date for a vote on PNTR, I certainly hope we will be able to rapidly reach a date prior to that when we can vote on the important issue of proliferation of weapons of mass destruction. Although trade, being as important as it is, it pales in comparison with the national security of this Nation.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

#### CHINA PROLIFERATION

Mr. HOLLINGS. Mr. President, I speak to the amendment of the Senator from Tennessee. There is no question that China proliferates. The very interesting feature to the entire picture here is that they object, of course, to us defending ourselves. As I see it, in essence, they are saying: Wait a minute. If you get a strategic defense initiative, if you get an antiballistic missile defense, that is going to deter or retard our proliferation, our sales to Pakistan, our sales to Iran.

A nation's defense should never be negotiable. It is totally out of the question. We should not be running around talking to the Europeans or those in the Pacific rim when it comes to what

is necessary and fundamentally needed for the defense of the United States.

I support the Senator from Tennessee.

#### DEUTSCHE TELEKOM

Mr. HOLLINGS. Mr. President, two Saturdays ago, Mr. Peter S. Goodman reported in the Washington Post on the design of Deutsche Telekom, a German government company, which is designed to take over any and all U.S. telecommunications. In the final paragraph of that particular story, the head of Deutsche Telekom said, no, they were not interested in joint ventures. They were interested in total control.

This Senator from South Carolina participated in the 1996 Telecommunications Act, deregulating and decontrolling the American telecommunications industry. We certainly didn't take it out from under American control to put it under German government control.

I placed a call to the head of the Federal Communications Commission. We had a conversation.

I ask unanimous consent that my letter of June 28 denoting that conversation be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,

Washington, DC, June 28, 2000.

Hon. WILLIAM KENNARD,  
Chairman, Federal Communications Commission, Washington, DC.

DEAR MR. CHAIRMAN: When I called, I knew what your answer would be. Section 310 of the Communication Act of 1934 forbids a foreign government or any entity with 25% or more foreign government ownership or control from being granted a license by the FCC. I knew of the public interest waiver, but in the 66 years of the Act the FCC has never waived, in any significant fashion, the law for foreign government ownership. I knew, also, that the Global Telecommunication Agreement permitted the FCC to consider the public interest satisfied if the entity or government was a member of the WTO. However, this was permissive and not mandated. And other countries, members of the WTO—Italy, Spain, and Hong Kong—have prohibited foreign government ownership. I knew, also, that the Congress and the Commission have been all out for competition and that competition has cost domestic companies their profits and values, making our companies vulnerable to foreign takeover. And to my amazement, when I asked the FCC position on foreign government ownership you hedged. First, you said it "was complicated". You did mention the 310 statute, but then talked about the WTO requirement. I countered it was not a required and certainly not in the public interest. You continued telling me you wanted to come up to discuss it with me to learn my position. I kept telling you I was giving you my position by calling. I'm opposed to foreign government ownership. Yesterday, I introduced a bill tightening legal prohibitions against foreign government ownership. Thereupon, you said well, if US West was taken over by a foreign government the Western states would be in an uproar. I countered I was already in an uproar. Again, you wanted to come up and discuss to learn my position. I stated that no further discussion was necessary and I asked that

when responding to any downtown lawyers inquiring to learn the position of the Commission, that you refer them to the law. You then said you weren't getting any calls, that your phone "wasn't ringing off the hook". I said I knew that the downtown lawyers were smart enough not to call directly, but to find out indirectly the position of the Commission. The call was then terminated without you stating your position, leaving me totally frustrated.

A treaty confirmed by a 2/3 vote in the Senate amends the law—not an agreement. And the global telecommunications agreement was never submitted to Congress. I can't emphasize enough that the WTO provision isn't absolute, only permissive. I can't imagine you taking the extreme position of government ownership and concluding this was in the public interest—particularly after all the effort we have made with the 1996 Telecommunications Act to deregulate and afford competition. Now, to allow a foreign government, protected from competition, to pick up a domestic telecommunications company, bloodied by the competition, and control telecommunications in the United States is unthinkable.

With kindest regards, I am

Sincerely,

ERNEST F. HOLLINGS.

Mr. HOLLINGS. Mr. President, since the distinguished Chairman of the Federal Communications Commission was rather elusive in that conversation, I then prevailed on 29 other colleagues in the Senate in a letter of June 29—the next day—and again on July 12, since I had not received a response.

I ask unanimous consent to have printed in the RECORD those particular letters dated June 29 and July 12 to the Chairman of the Federal Communications Commission.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,

Washington, DC, June 29, 2000.

Hon. WILLIAM KENNARD,  
Chairman, Federal Communications Commission, Washington, DC.

DEAR MR. CHAIRMAN: Recently, a foreign government owned telecommunications monopoly announced that it planned to purchase a controlling interest in a major U.S. telecommunications firm. This is contrary to U.S. law and is inconsistent with our policy to promote competition and maintain a secure communications system for our national security.

We would not be alone among WTO member countries in adopting this point of view. Italy, Spain and Hong Kong have prohibited similar transactions when the acquiring company was owned by a foreign government. U.S. regulators should be similarly skeptical of such acquisitions in this country.

Congress and the FCC have made tremendous progress with the passage of the 1996 Telecommunications Act in deregulating and forcing competition in our domestic communications market. This has promoted investment and the fruits of this competition have been a dramatic reduction in cost and more choice for American consumers. This competition and the strict enforcement of our anti-trust laws have also rendered these same domestic companies vulnerable to takeover by foreign firms which are still owned substantially by their governments.

To allow a foreign government owned corporation to purchase a U.S. telecommunications company would be putting domestic

competitors at the mercy of a foreign government. No country should allow this.

We are not opposed to foreign investment in U.S. communications firms. Rather, as the U.S. law provides, we oppose the transfer of licenses to companies who are more than 25 percent foreign government owned. For example, there was no objection to Vodafone's purchase of Airtouch or France Telecom's holding a non-controlling (10 percent) interest in Sprint.

For these reasons, we would urge that you highly scrutinize any merger involving foreign government owned providers.

Sincerely, Ernest F. Hollings and 29 other Senators.

U.S. SENATE,

Washington, DC, July 12, 2000.

Hon. WILLIAM KENNARD,  
Chairman, Federal Communications Commission, Washington, DC.

DEAR MR. CHAIRMAN: Recent press reports indicate that foreign government owned telecommunications monopolies are interested in purchasing a variety of U.S. telecommunications assets. Such an action would be contrary to U.S. law, which is clear on this issue. I urge that you publicly address this issue and put to an end the speculation that such a transaction might be approved.

The World Trade Organization Global Basic Telecommunications Agreement does not address government owned providers. Moreover, U.S. statutory law is quite specific. Under 47 U.S.C. 310(a) governments or their representatives are barred outright from purchasing U.S. telecommunications entities. Deutsche Telekom or France Telecom, for example, fit this mold. Indeed, Business Week specifically notes this week that one third of Deutsche Telekom's employees are government workers who cannot be terminated. In 1995, Scott Blake Harris, then head of the FCC's International Bureau, testified before the Senate Commerce Committee that Section 310(a)'s outright ban on foreign government ownership of radio licenses should be retained. Subsequent to the 1996 Telecommunications Act, he wrote in the National Law Journal: "More problematic, however, are the restrictions placed by the Communications Act on ownership of wireless licenses by a foreign government or its 'representative.' Section 310(a) flatly prohibits a foreign government or its representative from holding any wireless license, directly or indirectly. This limitation is not subject to being waived by the FCC." In that article, he specifically mentioned Deutsche Telekom and France Telecom relative to that ban.

Others argue that these transactions may come under Section 310(b) of the Communications Act. In 1995, U.S. Trade Representative Mickey Kantor wrote Senator Robert Byrd that Section 310(b) "is regarded by foreign companies as a major barrier to market access in the United States." He went on to indicate that legislative authority was needed to "remove this restraint through international negotiations." As you well know, after extensive debate and consideration of this issue in both the House and Senate, the 1996 Telecommunications Act did not provide such authority. Thus, it is not surprising that the European Union, in a 1999 trade report, identifies Section 310 as retaining force and effect, notwithstanding the Global Basic Telecommunications Agreement in 1997. As the European Union correctly recognizes, an executive agreement cannot override U.S. statutory text. As George Washington stated in his farewell address, "If the distribution or modification of the powers under the Constitution be in any particular wrong, let it